

that rotates about a single vertical axis and a rearward conveyor capable of both vertical and horizontal rotation wherein the second rearward conveyor rotates about the same singular vertical axis as the forward conveyor. The adjacent ends of the forward and rearward conveyors are always maintained within this vertical axis. Simply put, there is no prior art, including 565, that includes these limitations. The esteemed Examiner makes commentary that 565 includes forward conveying means “pivotally mounted to the frame.” Though it is apparent that 565 includes a plurality of parallel fingers (24) which arguably convey captured fowl upward to deposit the fowl into a transverse conveyor (26), neither the mounted plurality of parallel fingers (24) nor the transverse conveyor (26) appear to be pivotally mounted to the frame. Admittedly, these conveyors are mounted to the frame, however, not for pivotal movement about a vertical axis, these limitations are included in Claim 1 of the present application thus distinguishing Claim 1 from 565. Additionally and hypothesizing that the forward conveyors shown in 565 pivoted about a vertical axis, 565 also fails to define a forward conveyor that pivots about the very same vertical axis about which the rearward conveyor is designed to pivot.

Claim 2. Claim 2 depends from Claim 1 and incorporates its limitations therein and, accordingly, would be allowable based on the argument set forth above. In addition, issue is taken with the esteemed Examiner’s commentary that 565 further comprises pivot means 32, 30, 84, 54, 42, 34 that accommodates independent pivotal movement of said forward conveying means. An inspection of the application would indicate that the “pivot means” described by the esteemed Examiner is actually

rotatably mounted to the frame to facilitate pivotal movement of the **rearward** conveying means.

To clarify, paragraph (b) of Claim 1 references forward conveying means which is intended to include the forward conveyor (14) shown in figure 1. Paragraph (c) of Claim 1 references rearward conveying means which in turn includes a first rearward conveyor (27), and a second rearward conveyor (41), also shown in figure 1 and better shown in figure 2. The use of the term “conveying means”, first or second, should be distinguished from the use of the terms “a first rearward conveyor” and “a second rearward conveyor” as utilized in Claim 16 to more specifically describe the component portions of the “rearward conveying means.”

Claim 3. Claim 3 depends from Claim 2 and incorporates its limitations therein and, accordingly, would be allowable based on the argument set forth above.

Claim 11. Claim 11 depends from Claim 1 and incorporates its limitations therein and, accordingly, would be allowable based on the argument set forth above.

Claim 16. Claim 16 depends from Claim 1 and incorporates its limitations therein and, accordingly, would be allowable based on the argument set forth above. However, in view of 565, Claim 16 adds no significant inventive content over what is set forth in Claim 1. Applicant has chosen to amend Claim 16 to incorporate the limitations of Claim 17 and thereafter cancel Claim 17. Accordingly, the esteemed Examiner's rejection of Claim 17 and discussions relative thereto will be addressed. The content of Claim 17, that has now been integrated into Claim 16, sets forth automatic urging means that would extend and retract the first rearward conveyor relative to the second rearward conveyor as the first rearward conveyor was pivoted upward and downward

about a horizontal axis. The sliding movement of the second rearward conveyor relative to the first rearward conveyor is concurrent with and proportionately responsive to the degree the first rearward conveyor was moved about the horizontal axis. 565 provides a first rearward conveyor and a second rearward conveyor such that the first rearward conveyor is pivotally mounted to the frame for movement about a horizontal axis. The second rearward conveyor in 565 is capable of sliding movement along the first rearward conveyor of 565. What is not referenced in 565 and particularly column 4, lines 48 through 66 is a means for automatically urging the second rearward conveyor (50) in extension as the first rearward conveyor (46) is lifted upward and for retracting the second rearward conveyor (50) as the first rearward conveyor (46) is lowered. In sum, 565 fails to disclose an automatic urging means connected to the first and second rearward conveyors for automatically urging said second rearward conveyor in sliding motion relative to the first conveyor concurrently and proportionately responsive to the pivotal movement of said rearward conveying means about a horizontal axis.

Claim 21. Claim 21 depends from Claim 16 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above. Additionally, Claim 16 provides for separate means for selectively urging the second rearward conveyor in sliding motion relative to the first rearward conveyor. This selective urging means is part of the automatic urging means. The selective urging means is a piston shaft assembly (66) shown best in figure 8 which also forms the third linkage member (62) which is an integral part of the automatic urging means described in Claim 16. As previously discussed, 565 does not describe an automatic urging means and accordingly would not describe the selective urging means set forth in Claim 21. 565

would appear to rely on manual force to slide the rearward conveyor (50) relative to the forward conveyor (48).

Claim 22. Claim 22 depends from Claim 16 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 32. Claim 32 depends from Claim 16 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 33. Claim 33 focuses on the relationship between the first rearward conveyor, the second rearward conveyor and the automatic urging means. The remarks relative to Claim 16 are equally applicable to Claim 33. Applicant again concedes that 565 describes a first rearward conveyor with a second rearward conveyor slidably connected thereto for telescopic extension and retraction. Applicant respectfully submits that the automatic urging means as set forth in Claim 33 is not present in 565 as there is no mechanism in 565 for automatically urging the second rearward conveyor in sliding movement relative to the first rearward conveyor concurrently with and proportionately responsive to the pivotal movement of the first rearward conveyor. Applicant acknowledges that column 4, lines 48-65 of 565 reference the telescopic teaching but nothing relative to the remainder of Claim 33.

Regarding the Examiner's rejections of certain claims pursuant to 35 U.S.C. Section 103, the Applicant would respectfully submit the following discussion to better point out the specific limitations of the claims and the distinction between those claims and the prior art cited by the Examiner.

Claims 12, 13 and 37 were rejected as being unpatentable over 565 in view of U.S. 5361727 (herein 727).

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over 565 in view of U.S. 3958536 (herein 536).

Claims 18-20, 23, 24, 34-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over 565 in view of U.S. 5743217 (herein 217).

The Applicant will address these rejections as follows:

Claim 12. Claim 12 depends from Claim 11 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 13. Claim 13 depends from Claim 11 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 37. Claim 37 includes the limitation that the discharge carriage, in its entirety, is pivotally mounted to the second rearward conveyor for movement of the entire discharge carriage about a substantially vertical axis and laterally of the second rearward conveyor. The discharge mechanism in 727 (i.e. rotors 112, 113 and 114) certainly each individually rotate around a vertical axis as spinning fingered drums, commonly known in the industry, are apt to do. However, the entire discharge mechanism in 727, which would incorporate 112, 113, and 114 and its supporting framework, is, as a unit, fixed to the rearward conveyor and does not, as a unit, rotate in relation to the rearward conveyor. Accordingly, the limitations set forth in Claim 37 of this Application clearly distinguish patentable subject matter over 565 in view of 727.

Claim 14. Claim 14 depends from Claim 11 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 18. Claim 18 depends from Claim 16 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above. Additionally, 217 describes a lift assembly (62) which is connected to the frame and to the single conveyor support structure (40). 217 clearly lacks a second conveyor that is slidably connected to the first conveyor such that the lift assembly (62) would be provided an opportunity to automatically urge the second conveyor in relation to the first conveyor. The lift assembly (62) is simply a means for leveraging the primary conveyor assembly (40) upward and downward responsive to the forces exerted by hydraulic cylinders C-2 and C-3. There is nothing in the body of 217 to indicate that the lift assembly (62) and hydraulic members C-2 and C-3 could be used as a means of automatically urging a second conveyor slidably connected to a first conveyor as the first conveyor was being pivoted upward or downward about a horizontal axis. There is nothing in the body of 565 to indicate that it was contemplated that the two slidable conveyors described therein would be automatically urged in sliding telescopic movement as the first conveyor was pivoted upward or downward. Additionally, the lift mechanism (62) described in 217 is attached to the frame in a manner that prohibits lateral pivotal movement of the lift mechanism and the conveyor it supports relative to the frame. The use of the lift mechanism (62) taught in 217 with the sliding conveyors taught in 565 would hold the sliding conveyors rigid and would prevent their rotation about a vertical axis. The limitations taught in Claim 18 of the present application clearly state that the linkage members are pivotally connected to the second rearward conveyor and the first rearward conveyor without any reference to connection to the frame. This relationship is clearly shown in the drawings. This allows the linkage members to perform their

function without limiting the pivotal movement of the rearward conveying means about a vertical axis. The connective relationship of the linkage members taught in Claim 18 are clearly distinguished from that taught in 565 or 217 or any reasonable and contemplated combination of the two.

Claim 19. Claim 19 depends from Claim 16 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above. Applicant also asserts the arguments set forth above in reference to Claim 18 as equally applicable to Claim 19 in distinguishing Claim 19 from 565 and 217 or any combination thereof. Claim 19 has been amended to better clarify the connective relationship between the first linkage member and the secondary slewing ring and more importantly to distinguish the ability of the present invention to automatically urge the second rearward conveyor in sliding motion along the first rearward conveyor while permitting the rearward conveying means to pivot about a vertical axis. In addition to the foregoing, Claim 19 states that the linkage members urge the second rearward conveyor in sliding motion **along** said first rearward conveyor. This should be clearly distinguished from the teachings of 217 wherein the second conveyor in 217 is fixed to and does not slide along or relative to the first conveyor in 217. The fact that the second rearward conveyor moves upward relative to compartments of a storage bin is irrelevant and does not address the limitations set forth in Claim 19.

Claim 20. Claim 20 depends from Claim 18 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above.

Claim 23. Claim 23 depends from Claim 21 or Claim 22 and incorporates their respective limitations and, accordingly, would be allowable based on the argument set

forth above. Additionally, there is no second rearward conveyor in 217 that, in any way, interacts with or is connected to means for selectively urging said second rearward conveyor in sliding motion relative to a first rearward conveyor. There is no apparatus described in 565 for selectively urging one conveyor in sliding motion relative to the other conveyor excepting the use of manual force. In even greater particularity, the piston and shaft assembly used as selective urging means in the present application also constitutes a connective member in the linkage constituting the automatic urging means. As previously argued, neither 565 nor 217 comprise automatic urging means, thus the limitations of Claim 23, Claim 22, and Claim 16 describe three increasing levels of detail absent from 217 and 565. The selective urging means and specifically the piston and shaft assembly, in conjunction with the other component members of the automatic urging linkage facilitate the automatic extension of the second rearward conveyor, as the first rearward conveyor is pivoted upward or downward and maintain the discharge carriage within a single vertical plane. The selective urging means is used to fine tune that position relative to storage cages placed in proximity to the discharge carriage. The pivotal relationship between the discharge carriage and the second rearward conveyor also provides a degree of precise positioning to accommodate different angular positioning of storage cages, both rearward, laterally and vertically of the present invention.

Claim 24. Claims 24 depends from Claim 19 and incorporates its limitations and, accordingly, would be allowable based on the argument set forth above. Additionally, see the arguments relative to Claim 23.

Claims 34-36. Claims 34-36 depend from Claim 33 and incorporate their limitations and, accordingly, would be allowable based on the argument set forth above. Additionally, see the arguments set forth relative to Claim 23.

Applicant reasserts its remarks set forth in its response previously submitted on November 28, 2001 as if incorporated herein in their entirety. Though the prior art cited by the esteemed Examiner has changed, many of the arguments previously set forth in the previous response are relevant to distinguish the present Application and its present claims and their limitations from the prior art recently set forth by the Examiner.

In view of the above, it is submitted that Claims 1-16 and 18-37 are in condition for allowance. Reconsideration of the esteemed Examiner's rejections and objections is respectfully requested. As noted by the Examiner, the remaining claims not referenced above but objected to depend from an allowable claim. Accordingly, allowance of Claims 1-16 and 18-37 is earnestly solicited.

Respectfully submitted,


GLASSMAN, EDWARDS, WADE & WYATT

By: 

TODD B. MURRAH, #35,622
(901) 527-4673

MAILING CERTIFICATE

I hereby certify that the within correspondence is being deposited with the United State Postal Service as first class mail in an envelope addressed to the Honorable Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, this 16th day of November, 2004.


TODD B. MURRAH